

REMARKS

No claims are amended, no claims are canceled, and no claims are added; as a result, claims 1-40 are now pending in this application.

§102 Rejection of the Claims

1. Claims 1-6, 31-36, and 40 were rejected under 35 U.S.C. § 102(b) for anticipation by Trostle (U.S. 5,919,257). Applicants respectfully traverse the rejection of claims 1-6, 31-36, and 40.

Applicants respectfully submit that the Office Action fails to meet its burden for establishing a *prima facie* case of anticipation¹ because Trostle fails to disclose in a single prior art reference the subject matter claimed by claims 1-6, 31-36, and 40 of the present application.

For example, independent claim 1 requires the following:

A method to detect fraudulent activities at a network-based transaction facility, the method comprising:

causing a first identifier associated with a first user identity to be stored on a machine responsive to a first sales-related event with respect to the network-based transaction facility and initiated under the first user identity from the machine which is coupled to the network-based transaction facility via a network; and

detecting a potentially fraudulent activity by detecting a lack of correspondence between the first identifier stored on the machine and a second identifier associated with a second user identity responsive to a second sales-related event with respect to the network-based transaction facility and initiated under the second user identity from the machine.

In contrast to claim 1, Trostle recites,²:

In step 82 a username prompt is presented to the user. In response, the user enters a username which is transmitted to the server and in

¹ Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. *In re Dillon* 919 F.2d 688, 16 USPQ 2d 1897, 1908 (Fed. Cir. 1990) (en banc), cert. denied, 500 U.S. 904 (1991). It is not enough, however, that the prior art reference discloses all the claimed elements in isolation. Rather, anticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, arranged as in the claim. *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984).

² See Trostle at column 5, lines 49-54.

step 84 the server compares the entered username against a list of authorized users. If the username is not valid, network access is denied in step 86 and the login process ends.

Applicants respectfully submit that Trostle fails to disclose “causing a first identifier associated with a first user identity to be stored on a machine responsive to a first sales-related event with respect to the network-based transaction facility and initiated under the first user identity from the machine which is coupled to the network-based transaction facility via a network”, as included in claim 1 because Trostle merely describes blocking unauthorized users, and is not concerned with a “method to detect fraudulent activities”. In Trostle, only an exact match between the entered username and the corresponding username at the server database will result in allowed access. Thus, Trostle fails to disclose, “detecting a potentially fraudulent activity by detecting a lack of correspondence between the first user identifier stored on the machine and a second identifier associated with a second user identity responsive to a second sales-related even with respect to the network-based transaction facility and initiated under the second user identity from the machine,” as required by claim 1.

For at least the reasons stated above, Trostle fails to disclose all of the subject matter included in claim 1, and therefore claim 1 is not anticipated by Trostle.

Independent claim 31 requires:

causing a first identifier associated with a first user identity to be stored on a machine responsive to a first sales-related event with respect to the network-based transaction facility and initiated under the first user identity from the machine which is coupled to the network-based transaction facility via a network; and
detecting a potentially fraudulent activity by detecting a lack of correspondence between the first identifier stored on the machine and a second identifier associated with a second user identity responsive to a second sales-related event with respect to the network-based transaction facility and initiated under the second user identity from the machine.

Independent claim 33 requires:

an identifier processor to cause a first identifier associated with a first user identity to be stored on a machine responsive to a first sales-related event with respect to the network-based transaction facility and initiated under the first user identity from the machine which is coupled to the network-based transaction facility via a network; and

a first detection processor to detect a potentially fraudulent activity by detecting a lack of correspondence between the first identifier stored on the machine and a second identifier associated with a second user identity responsive to a second sales-related event with respect to the network-based transaction facility and initiated under the second user identity from the machine.

Independent claim 40 requires:

a first means for causing a fist identifier associated with a first user identity to be stored on a machine responsive to a first sales-related event with respect to the network-based transaction facility and initiated under the first user identity from the machine which is coupled to the network-based transaction facility via a network; and

a second means for detecting a potentially fraudulent activity by detecting a lack of correspondence between the first identifier stored on the machine and a second identifier associated with a second user identity responsive to a second sales-related event with respect to the network-based transaction facility and initiated under the second user identity from the machine.

For at least the reasons presented above with respect to independent claim 1, Trostle fails to describe all of the limitations of independent claims 31, 33, and 40, and so independent claims 31, 33, and 40 are not anticipated by Trostle.

Claims 2-6, 34-36 are dependent one of independent claims 1 and 33, and include all of the limitations of the independent claim from which they depend, and more. For at least the reasons stated above with respect to independent claims 1 and 33, Trostle fails to disclose all of the subject matter included in claims 2-6 and 34-36, and so claims 2-6 and 34-36 are not anticipated by Trostle.

Because 1-6, 31-36, and 40 are not anticipated by Trostle, Applicants respectfully request reconsideration and withdrawal of the rejection, and allowance of claims 1-6, 31-36, and 40.

§103 Rejection of the ClaimsClaims 7-8 and 37

Claims 7-8 and 37 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Trostle. Applicants respectfully traverse the rejection of claim 7-8 and 37.

Claims 7-8 depend from independent claim 1, and claim 37 depends from independent claim 33, and so include the limitations of the independent claim from which they depend, and more. Applicants believe they have established that for at least the reasons stated above with respect to independent claims 1 and 33, Trostle fails to describe the limitations of independent claims 1 and 33. Thus, Trostle fails to describe the limitations of claims 7-8 and 37, and so claims 7-8 and 37 are not obvious in view of Trostle.

For at least the reasons stated above, the Office Action fails to meet its burden for establishing a *prima facie* case of obviousness with respect to claims 7-8 and 37. Applicants respectfully request reconsideration and withdrawal of the rejection, and allowance of claims 7-8 and 37.

Claims 9-19 and 38 and claims 20-30 and 39.

Claims 9-19 and 38 were rejected under Trostle in view of Miller (“The complete Idiot’s Guide to Ebay Online Auctions, copyright July 1999”).

Claims 20-30 and 39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Trostle in view of Miller as applied to claims 19 and 38 above and further in view of Smaha et al. (U.S. 5,557,742). Applicants respectfully traverse the rejection of claim 9-19 and 38, and respectfully traverses the rejection of claim 20-30 and 39.

Claims 20-30 and 39 are not obvious in view of the proposed combination of Trostle, Miller, and Smaha et al. because the proposed combination of Trostle, Miller, and Smaha et al. fails to describe or suggest all of the limitations of claims 20-30 and 39. Applicants believe they have established that Trostle fails to describe or suggest all of the subject matter included in independent claim 1 and independent claim 33, and so Trostle also fails to describe or suggest all of the limitation of claims 20-30 and claim 39, which depend from one of independent claims 1 and 33. Further Applicants' fail to find in, and the Office Action fails to point out in either Miller or in Smaha et al., where there is a description or a suggestion of the subject matter included in claims 20-30 and 39 and missing form Trostle. Thus, the proposed combination of

Trostle, Miller, and Smaha et al. fails to describe or suggest the subject matter included in claims 20-30 and 39, and so claims 20-30 and 39 are not obvious in view of the proposed combination of Trostle and Miller.

For at least the reasons stated above, the Office Action fails to meet its burden for establishing a *prima facie* case of obviousness with respect to claims 9-30 and 38-39. Applicants respectfully request reconsideration and withdrawal of the rejection, and allowance of claims 9-30 and 38-39.

Reservation of Rights

In the interest of clarity and brevity, Applicants may not have addressed every assertion made in the Office Action. Applicants' silence regarding any such assertion does not constitute any admission or acquiescence. Applicants reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicants do not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicants timely object to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicants reserve all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney at 408-278-4042 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 29th, day of March, 2007.

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